

REMARKS

Claims 1-13 are pending in the above-identified application. Applicants have currently amended Claims 1, 5 and 7 and cancelled claims 2-4. Applicants have added new claims 14-22 directed to, inter alia, salicyclic acid 1,2-dimethyl butyl ester. Applicants respectfully submit that the claims as amended introduce no new matter and support for the invention of Claims 14-22 is exemplified in Example 8 on pages 9-10 of the specification. With the addition of these claims there are 19 claims presented for examination and there are five independent claims. The Examiner is authorized to charge Deposit Account 12-1295 any charges required by the filing of these papers.

Reconsideration of the rejections of record is respectfully requested in light of the following comments.

Claims 5-13 stand rejected under 37 CFR § 1.75(c) as being in improper form because a multiple dependent claims should refer to the other claims in the alternative only--,and/or,-- cannot depend from any other multiple dependent claim. Applicants have amended claims 5 and 7 so that they are no longer in improper form. Applicants respectfully request withdrawal of the objection and allowance of the claims on the merits.

Claims 1-3 stand rejected under 35 U.S.C. § 102(b) as being anticipated by US Patent 4,624,802 to Shaper et al. (herein referred to as Shaper et al.). It is the Examiner's position that the Shaper et al. patent teaches a compound of formula as recited at col. 1, lines 25-38 which embraces the scope of the instantly claimed compound.

Shaper et al. is directed to a salicyclic acid ester wherein R is a member having 5 to 9 carbon atoms selected from the group consisting of cycloalkyl, C1-C4-alkylcycloalkyl, cycloalkenyl and C1-C4-alkyl-cycloalkenyl, and n is an integer from 0 to 3.

In order to expedite allowance of the present application, Applicant's have amended Claim 1 by canceling the members within the scope of Shaper et al. and have cancelled claims 2 and 3.

Therefore, Applicants submit that in view of the current amendment Claim 1 is in condition for allowance. Applicant's respectfully request the withdrawal of the rejection under 35 U.S.C. §102(b) and the allowance of Claim 1.

The Examiner has also rejected Claims 1-4 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,458,757 to Storet et al. (herein referred to as Storet et al). In order to expedite allowance of the present application, applicants have cancelled claims 2-4.

It is the Examiner's position that the patent teaches a compound as described at col. 1, lines 40-67. The Examiner states that the patent compound differs in that there may be an additional alkyl substituent on the benzyl ring and that the compounds that are position isomers (compounds having the same radicals in physically different positions on the same nucleus) or homologs (compounds differing regularly by the successive addition of the same chemical group e.g., by -CH₂- groups) are generally sufficiently close structural similarity that there is a presumed expectation that such compounds possess similar properties. Thus, according to the Examiner it would have been obvious to one skilled in the art to make the claimed compound absent the additional alkyl substituent with the reasonable expectation of deriving a useful perfuming compound, absent any evidence to the contrary.

Applicants submit the claimed compounds are not isomers or homologs of the compounds claimed in Storet et al. Storet et al. requires R₂, the aliphatic radical which is preferably saturated and preferably less than 4, to be present and nowhere provides any teaching, suggestion or motivation of a structure without R₂ present on the benzyl ring.

In view of these facts, Applicants assert the compounds of the instant application and those of Storet et al. are not position isomers or homologs. Therefore, the compounds of the claimed invention and those of Storet et al. are not of sufficiently close structural similarity and there is no presumed

expectation to one of ordinary skill in the art that the compounds possess similar properties.

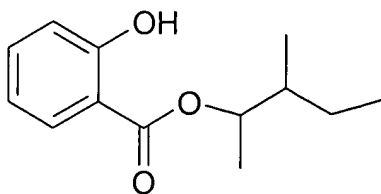
Furthermore, odor differences among homologs and isomers have had independent patentability appreciated by the USPTO. The compounds of the claimed invention and those of Storet et al. are neither homologs nor isomers and they possess very different odors as can be easily observed from a perusal of Examples 1 to 14 of the claimed invention. The compounds of the claimed invention have unique organoleptic properties not taught, described or suggested in Storet et al.

In contrast to the claimed invention, the compounds described in Storet et al. have odors described as sensual flowery scent typical of ylang notes, terpenic plum-tree evernia scent, celery scent, phenolic aniseed scent, fruity leather scent, leather scent, leathery scent, saffron violet scent and a may blossom scent, see specification col. 6-9, examples 1-22.

The odors of the compounds of the claimed invention are described in Examples 1-14 as having a spicy geraniol note, a green salicylate note having green and aubepine notes, spicy green isocyclogeraniol note, green floral salicylate note, a sassafras note, green salicylate odor with floral notes, green salicylate fragrance with floral fruity notes, low key salicylate fragrance with smokey notes, and a salicylate and green floral fragrance with chocolate and fruity notes, respectively.

In view of these patentable differences the compounds of the claimed invention are not obvious in view of Storet et al. Applicant's respectfully request the withdrawal of the rejection under 35 U.S.C. § 103(a) and the allowance of Claim 1.

New Claims 14-22 are directed to salicylic acid 1,2-dimethyl butyl ester which is supported in the specification in Example 8 on page 9 line 16 to page 10 line 4 and is appreciated by one skilled in the art to have the following structure:



This compound is described as having a sassafras note.

Applicants respectfully submit that the claims as presented are in full compliance with all statutory provisions and the reasons for rejection of record are no longer applicable. No new matter has been added.

Early and favorable consideration of the pending claims is earnestly solicited.

Respectfully submitted,

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Date: August 26, 2005